

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TRUE HEALTH CHIROPRACTIC INC, et
al.,

Plaintiffs,

v.

MCKESSON CORPORATION, et al.,

Defendants.

Case No. 13-cv-02219-HSG


**ORDER DIRECTING THE PARTIES
TO SUBMIT SUPPLEMENTAL
BRIEFING**

On September 24, 2015, the Court held a hearing on Plaintiffs' Motion for Class Certification. Dkt. No. 209. During that hearing, the parties disputed who bore the burden to prove that the members of the putative class consented (or did not consent) to receive the fax advertisements at issue. Defendants asserted that Plaintiffs must prove the absence of consent as an element of its claim under the Junk Fax Prevention Act. Plaintiffs responded that Defendants bore the burden to prove express permission as part of their affirmative defense to liability.

The parties are directed to submit simultaneous supplemental briefing that (1) identifies the case law, statutes, and regulations that support its position; and (2) explains whether the issue of who bears the burden of proof impacts the resolution of Plaintiffs' Motion for Class Certification. The parties shall file 10-page briefs on these issues no later than October 16, 2015. Each party may file a 5-page reply brief no later than October 23, 2015.

IT IS SO ORDERED.

Dated: October 1, 2015


HAYWOOD S. GILLIAM, JR.
United States District Judge